

AMENDED IN ASSEMBLY JUNE 27, 2002
AMENDED IN ASSEMBLY JUNE 20, 2002
AMENDED IN SENATE APRIL 29, 2002
AMENDED IN SENATE APRIL 22, 2002
AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 1383

Introduced by Senator Bowen

February 12, 2002

An act to add Section 17538.35 to the Business and Professions Code, relating to electronic mail.

LEGISLATIVE COUNSEL'S DIGEST

SB 1383, as amended, Bowen. Electronic mail: service providers.

Existing law regulates the sending of unsolicited electronic mail advertisements.

This bill would require an electronic mail service provider, as defined, to give each customer notice at least 30 days prior to permanently terminating ~~—service~~ *the customer's electronic mail address*, unless otherwise provided by law or contract. The bill would prohibit *a contract from permitting* termination of service without cause *with less than a 30-day notice*. The bill would authorize an individual plaintiff to bring an action in any court of competent jurisdiction against an electronic mail service provider that violates these provisions for either actual damages or liquidated damages of \$50. The bill would provide that it supersedes and preempts all local agency provisions regarding notice of electronic mail termination by

providers of electronic mail service. The bill would also provide that its provisions would become inoperative if a federal law or regulation is enacted regulating notice requirements in the event of termination of ~~e-mail~~ *electronic mail* service.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17538.35 is added to the Business and
2 Professions Code, to read:
3 17538.35. (a) Unless otherwise permitted by law or contract,
4 any provider of electronic mail service shall provide each
5 customer with notice at least 30 days before permanently
6 terminating the customer's ~~service~~ *electronic mail address*.
7 (b) No contract for electronic mail service may permit
8 termination of service without cause *with less than a 30-day*
9 *notice*.
10 (c) For purposes of this section, "provider" shall mean the
11 entity that controls the customer's electronic mail address, and not
12 the entity making the underlying network or access available to the
13 provider or the customer.
14 (d) No provider shall be liable under this section solely for a
15 failure to comply with this section in the event a customer's
16 electronic mail ~~service~~ *address* is permanently terminated due to
17 the action or inaction of an entity making the underlying network
18 or access available to the provider or the customer.
19 (e) A customer may bring an action in any court of competent
20 jurisdiction against the provider of electronic mail service for a
21 violation of subdivision (a) and may seek either actual damages,
22 or liquidated damages in the amount of fifty dollars (\$50). The
23 provisions of this section shall be in addition to any other remedies
24 or penalties available at law. ~~The remedy set forth in this section~~
25 ~~is~~ *remedies for a violation of a customer's right to a 30-day notice*
26 *prior to termination are* applicable only to actions brought in the
27 name of, and on behalf of, a single plaintiff, and shall not be
28 applicable in multiple plaintiff or class actions.
29 (f) This section supersedes and preempts all rules, regulations,
30 codes, statutes, or ordinances of all cities, counties, cities and
31 counties, municipalities, and other local agencies regarding notice

1 of electronic mail termination by providers of electronic mail
2 service.

3 (g) This section shall become inoperative on the date that a
4 federal law or regulation is enacted that regulates notice
5 requirements in the event of termination of electronic mail service.

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